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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,706	03/23/2004	Benjamin Salvatini	8266-1268	2676
25267	7590	10/25/2004	EXAMINER	
BOSE MCKINNEY & EVANS LLP 135 N PENNSYLVANIA ST SUITE 2700 INDIANAPOLIS, IN 46204			SANTOS, ROBERT G	
			ART UNIT	PAPER NUMBER
			3673	

DATE MAILED: 10/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/806,706	Applicant(s) SALVATINI ET AL	
	Examiner Robert G. Santos	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/23/2004, 5/14/2004, and on 9/21/2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-11, 13, 14, 16-22, 25-35 and 37-40 is/are rejected.
- 7) ☒ Claim(s) 5, 12, 15, 23, 24 and 36 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>05142004, 09212004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 4, 8-11, 16-22, 25-35, 37, 38 and 40 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,369,828 to Graebe in view of U.S. Patent No. 6,269,504 to Romano et al. Graebe '828 is considered to show the limitations as recited in claims 1, 4, 8-11, 16-22, 26-35, 37, 38 and 40 (note especially Figures 1-4 & 6; column 3, lines 3-7 & 30-35; column 4, lines 9-23; column 5, lines 36-61; and column 6, lines 52-57) except for the use of a three-dimensional fiber network cooperating with the inflatable bladders and at least one foam member and being positioned within the interior region of the at least one cover. Romano et al. '504 provide the basic teaching of a support apparatus provided with a three-dimensional fiber network (60) supported by a base (10, 50) and positioned within a cover (62). The skilled artisan would have found it obvious at the time the invention was made to provide the apparatus of Graebe '828 with a three-dimensional fiber network cooperating with the inflatable bladders and at least one foam member and being positioned within the interior region of the at least one cover in order to improve pressure distribution, thereby aiding in providing enhanced user comfort and support (see Romano et al. '504, column 1, lines 8-9 and column 2, lines 4-7 & 11-18). As concerns claim 25, Graebe '828, as modified by Romano et al. '504, does not specifically

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disclose the use of a second mattress section including a second plurality of inflatable bladders and a second three-dimensional fiber network enclosed within a *second* cover; the skilled artisan would have found it obvious at the time the invention was made to provide the apparatus of Graebe '828 with a second plurality of inflatable bladders and a second three-dimensional fiber network enclosed within a second cover since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

3. Claims 1-4, 6-11, 13, 14, 16-22, 25-35 and 40 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,794,288 to Soltani et al. in view of U.S. Patent No. 6,269,504 to Romano et al. Soltani et al. are considered to show the limitations as recited in claims 1-4, 6-11, 13, 14, 16-22, 25-35 and 37-40 (note especially Figures 1-5; column 5, lines 35-67; column 6; column 7, lines 1-27 & 41-67; and column 8, lines 1-23 & 32-50) except for the use of a three-dimensional fiber network cooperating with the inflatable bladders and at least one foam member and being positioned within the interior region of the at least one cover. Romano et al. '504 provide the basic teaching of a support apparatus provided with a three-dimensional fiber network (60) supported by a base (10, 50) and positioned within a cover (62). The skilled artisan would have found it obvious at the time the invention was made to provide the apparatus of Soltani et al. '288 with a three-dimensional fiber network cooperating with the inflatable bladders and at least one foam member and being positioned within the interior region of the at least one cover in order to improve pressure distribution, thereby aiding in providing enhanced user comfort and support (see Romano et al. '504, column 1, lines 8-9 and column 2,

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lines 4-7 & 11-18). As concerns claim 25, Soltani et al. '288, as modified by Romano et al. '504, do not specifically disclose the use of a second mattress section including a second plurality of inflatable bladders and a second three-dimensional fiber network enclosed within a *second* cover; the skilled artisan would have found it obvious at the time the invention was made to provide the apparatus of Soltani et al. '288 with a second plurality of inflatable bladders and a second three-dimensional fiber network enclosed within a second cover since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

4. Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Graebe '828 in view of Romano et al. '504, and further in view of Soltani et al. '288. Graebe '828, as modified by Romano et al. '504, does not specifically disclose the use of a cover which is configured to permit air to pass therethrough. Soltani et al. provide the basic teaching of a support apparatus (12) provided with a cover (24) that allows air to pass therethrough. The skilled artisan would have found it obvious at the time the invention was made to provide the apparatus of Graebe '828, as modified by Romano et al. '504, with a cover which is configured to permit air to pass therethrough in order to impart increased ventilation to a user positioned thereon, thereby helping to provide further enhanced user comfort.

Allowable Subject Matter

5. Claims 5, 12, 15, 23, 24 and 36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of

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the base claim and any intervening claims. The examiner respectfully asserts that none of the prior art, taken either singly or in combination, is seen to teach or suggest the structural limitations of a plurality of inflatable bladders *which is supported by* at least one three-dimensional fiber network as recited in claims 5 and 12, a top portion of a plurality of inflatable bladders being *formed from the top surface of the at least one cover* as recited in claim 15, the *bottom* surface of the at least one cover including an opening configured to receive the at least one foam member as recited in claims 23 and 24, and ticking material covering the three-dimensional network *and* the foam support as recited in claim 36.

Conclusion


6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Flick et al. '078, Salvatini et al. '450, Romano et al. '255, Clapper '112, Reeder et al. '987, Salvatini et al. '800, Reeder et al. '935, Flick et al. '848, Clapper '080, Rowley et al. '263, Reeder et al. '503, Reeder et al. '209, Romano et al. '200, Stolpmann et al. '735, Stolpmann et al. '718, Soltani et al. '578, Graebe '238, Reeder et al. '861, Flick '855, Graebe '832, Taylor et al. '784, Miller, Sr. et al. '949, Graebe '257, Graebe '107, Graebe '741, Hannagan et al. '474, Dotson '176, Peck et al. '744 and Stracke '224.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert G. Santos whose telephone number is (703) 308-7469. The examiner can normally be reached on Tues-Fr and first Mondays, 10:30 a.m. to 8:00 p.m..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Robert G. Santos
Primary Examiner
Art Unit 3673

R.S.
October 20, 2004